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PART IV.

Legislative Measures and Rules thereunder.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE ELEVENTH DAY OF JULY 1932.)

Order No. P. 380—Legis. 32-31-3 Bangalore, dated the 19th July 1932.

Ordered that the accompanying Regulation to provide for the proper regulation and control of water from Irrigation Works, for the regulation of customary labour and for certain other matters pertaining to irrigation which received the assent of His Highness the Maharaja, on the eleventh day of July 1932, be published as Regulation No. I of 1932, in the *Mysore Gazette* for general information.

N. MADHAVA RAO,
Chief Secretary to Government.

The Mysore Irrigation Regulation, No. I of 1932.

Preamble. Whereas it is expedient to make adequate provision for the proper regulation and control of the supply of water from irrigation works, for the regulation of customary labour and for certain other matters pertaining to irrigation; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short Title

1. This Regulation may be called the Mysore Irrigation Regulation, 1932.

Extent and commencement.

2. The Government may, by notification in the *Official Gazette*, extend this Regulation, or any portion thereof, to any local area or to any irrigation work or class of irrigation works, and may also by a like notification subsequently exclude any portion of such local area or any such irrigation work or class of irrigation works from the operation of this Regulation, from such date as may be specified therein.

All existing regulations, rules, orders or usages having the force of law, in so far as they are inconsistent with any of the provisions of this Regulation and the rules made thereunder in the areas and with respect to the irrigation works or classes of irrigation works to which this Regulation is extended, are repealed to the extent to which they are so inconsistent;

Provided that nothing herein contained shall be deemed to affect any acts done or liabilities incurred under the said regulations, rules, orders or usages having the force of law.

Definitions.

3. In this Regulation, unless there is anything repugnant in the subject or context :—

'Irrigation work.'

(1) "Irrigation Work" includes—

(*a*) all reservoirs, tanks, anicuts, canals, channels *thalapariges* and pipes constructed, maintained or controlled wholly or mainly by the Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, anicuts, canals, channels, *thalapariges* or pipes and all roads constructed for the purpose of facilitating the construction or maintenance of such reservoirs, tanks, anicuts canals, channels, *thalapariges*, or pipes;

(*c*) all water courses and drainage works as hereinafter defined;

(*d*) all lands occupied by the Government for the purposes of such reservoirs, tanks, anicuts, canals, channels, *thalapariges*, pipes, and all buildings, machinery, fences, gates and other erections, occupied by or belonging to the Government upon such lands:

(2) "New Irrigation Work" means any work of irrigation as defined in clause (1), constructed or completed after this Regulation comes into force and includes extensions of irrigation works made after this Regulation comes into force: 'New Irrigation Work.'

(3) "Water Course" (*hikkal*) means any channel or pipe which is supplied with water from an irrigation work, but which is not maintained at the cost of the Government, and includes all subsidiary works connected with any such channel or pipe except the sluice or outlet through which water is supplied to such channel or pipe: 'Water Course.'

(4) "Drainage work" includes channels, either natural or artificial, for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels and escape channels from an irrigation work, dams, weirs, embankments, sluices, groins and all works for the protection of lands from flood or from erosion formed or maintained by the Government either wholly or in part: 'Drainage work.'

(5) "Deputy Commissioner" includes any officer appointed by the Government to exercise all or any of the powers of a Deputy Commissioner under this Regulation: 'Deputy Commissioner.'

(6) "Irrigation-Officer" means any officer not below the rank of an Assistant Commissioner or an Assistant Engineer appointed by the Government to exercise all or any of the functions of an Irrigation Officer under this Regulation: 'Irrigation Officer.'

(7) "Amildar" includes a Deputy Amildar: Amildar.

(8) "Owner" includes every person having an interest in the ownership of the thing specified: 'Owner.'

(9) "Occupier" means, in respect of any land any person who has an interest in the land and cultivates the land himself or by his servants, or by hired labour and includes a tenant: Occupier.

(10) "Magistrate" means a Magistrate of the first or second class and includes a Magistrate of the third class specially empowered by the Government to try offences under this Regulation. 'Magistrate.'

4. The Government or, subject to such rules as may be made under this Regulation, any officer whom the Government empowers in this behalf, may declare by notification in the *Official Gazette*, the officers by whom and the local limits within which all or any of the powers Appointment of officers.

or duties hereinafter conferred or imposed on the Deputy Commissioner and the Irrigation Officer, shall be exercised or performed.

CHAPTER II.

OF THE CONTROL OF WATER AND OF IRRIGATION WORKS.

Power to enter upon land for purposes of inspection, etc.

5. Any Irrigation Officer appointed in this behalf and any person acting under the general or special orders of such Irrigation Officer may enter upon any land building or water course, for the purpose of inspecting or regulating the use of water, of measuring the land irrigated thereby, and of doing anything necessary for the proper regulation, maintenance and management of any irrigation work.

Powers for repairing or preventing damage to an irrigation work.

6. On any damage happening or being apprehended to any irrigation work or in any other emergency, any Irrigation Officer and any person acting under his general or special orders in this behalf, may at any time enter upon any lands adjacent to or in the neighbourhood of any irrigation work, and may repair any existing work, construct any new work, or take and utilise any material and take any measure or do anything that may, in his opinion, be necessary to prevent such accident or to save loss or damage to any property or to repair any damage done.

Notice of intended entry on private property to be given in cert ain cases.

7. When an Irrigation Officer, or any person acting under his general or special orders in this behalf, proposes under the provisions of section 5 or section 6 to enter into any building or enclosed court or garden attached to a dwelling house into which water does not flow from any irrigation work, he shall previously give to the occupier of such building, court or garden, such reasonable notice as the urgency of the case may allow. Such notice shall be in writing except in a case of emergency.

CHAPTER III.

OF WATER COURSES.

Construction, extension, improvement or alteration of a water

8. (1) Any person desiring the construction, extension, improvement, or alteration of a water course may apply in writing to the Irrigation Officer, and the said

officer may, after giving such notice and causing such enquiries as may be prescribed by rules framed by the Government for the purpose, either permit the applicant to construct, extend, improve or alter the said water course or, if the applicant so desires, have it constructed, extended, improved or altered through Government agency on such terms and conditions as regards payment of costs, mode of execution and time of completion, facilities to be afforded by the applicant to safeguard other interests or to benefit other lands whose owners may apply for the same, and other matters as may be relevant in each case, or may reject the application. course on the applica tion of person interested.

From the order of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner of the District and from his decision, a second appeal shall lie within ninety days from the date of the service of such appellate order to the Revenue Commissioner whose decision thereon shall be final.

(2) If is necessary to acquire any land for the purposes of sub-section (1) the Deputy Commissioner may proceed to acquire the same under the provisions of the Land Acquisition Regulation, 1894.

Explanation :—Notwithstanding anything contained in the *proviso* to section 6 (1) of the Land Acquisition Regulation, 1894, the acquisition of any land under sub-section (2), shall be deemed to be for a public purpose.

9. No water course constructed, extended, improved, or altered under the provisions of section 8 shall be altered without the consent of the Irrigation Officer. No alterat of water course exc with cons of Irrigat Officer.

10. Every owner or occupier of land which receives a supply of water from a water course shall be bound— Obligation of owners land receiv supply fr water cour

(*a*) to maintain such water course in a fit state of repair; and

(*b*) to allow the use of it to any person entitled to the same by reason of an order passed under section 8 or otherwise.

11. (1) If any owner or occupier of land which receives a supply of water from a water course fails to fulfil any obligation imposed on him by sub-clause (*a*) of section 10, the Irrigation Officer may require him by notice to execute the necessary work or repair within Enforcem of said obl gations.

such period, not less than five days from the date of service of notice, as may be prescribed therein, and in case of his default, may execute the same on his behalf.

(2) The expenses incurred by the Irrigation Officer on any work or repair under sub-section (1) shall be recoverable from the defaulter as an arrear of land revenue.

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12. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water course, or among joint owners of a water course as to their respective shares of the expense of constructing or maintaining such water course or as to the amount severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share, any person interested in the matter of such dispute may apply in writing to the Irrigation Officer stating the matter in dispute.

Such officer shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code, 1888, and pass his decision thereon.

From the decision of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said decision to the Deputy Commissioner of the District whose order thereon shall remain in force, until set aside by a decree of a Civil Court.

CHAPTER IV.

REGULATION OF IRRIGATION.

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13. (1) The Deputy Commissioner of the District or any other officer specially empowered by the Government in this behalf may regulate in respect of any irrigation work for each year or for a specified term of years at a time, as circumstances may require,

(i) the time for letting out water for irrigation,
(ii) the period of the supply, and
(iii) the quantity of the supply,

after holding such enquiry as may be provided for by rules framed by the Government.

(2) From the order of an officer other than the Deputy Commissioner under sub-section (1), an appeal shall lie to the Deputy Commissioner of the District within thirty days from the date of such order and from the original or appellate order of the Deputy Commissioner, an appeal shall lie to the Revenue Commissioner, within ninety days of such order.

Supply of water from new irrigation work.

14. (1) Every person desiring the supply of water from a new irrigation work shall submit a written application to that effect to the Irrigation Officer in such form as may be prescribed by the Government.

If the supply of water is desired for irrigation, it may be granted for such period and on such terms as may be prescribed by rules framed by the Government.

(2) Notwithstanding anything contained in sub-section (1), the rates leviable for the supply of water for irrigation from a new irrigation work constructed at an outlay of less than one lakh of rupees and not falling under Chapter VI of this Regulation shall be fixed in conformity with the provisions of the Mysore Land Revenue Code, 1888 and the rules thereunder,

provided that when such work is itself an extension of a new irrigation work constructed at a cost of not less than one lakh of rupees, the provisions of sub-section (1) shall apply irrespective of the cost of the work.

(3) If the application is for the supply of water for purposes other than those of irrigation, the Irrigation Officer may, with the sanction of the Government, permit water to be taken for such purposes subject to such special conditions and restrictions as the Government may impose in each case.

Supply of water not to be stopped except under certain circumstances.

15. The supply of water to any water course or to any person who is entitled to such supply shall not be stopped except in the circumstances and subject to the limitations specified below, namely,

(*a*) whenever and so long as it is necessery to stop such supply—

(i) for the purpose of executing any work ordered by competent authority ; or

(ii) in order to supply in rotation the legitimate demand of other persons entitled to water;

(*b*) whenever and so long as any water course by which such supply is received is not maintained in such

repair as to prevent the wasteful escape of water therefrom ;

(*c*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ;

(*d*) within the periods fixed from time to time by an Irrigation Officer acting under section 16, of which reasonable notice shall be given.

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16. (1) An Irrigation Officer specially empowered by the Government, in this behalf, may, in any year, having regard to the quantity of water available in any irrigation work under his control determine the portion of the wet lands in the irrigable area of such irrigation work to be cultivated with wet crops, or with dry or semi-dry crops, and regulate the supply of water for irrigation accordingly.

(2) If, in accordance with a decision of the Irrigation Officer under sub-section (1), any land assessed as wet is not supplied with water for raising wet crops, the holder of such land shall be entitled to remission of one-half of the assessment of such land.

From the order of the Irrigation Officer under this section, an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner of the District, and from his decision, a second appeal shall lie within ninety days from the date of the service of such appellate order, to the Revenue Commissioner whose decision shall be final.

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17. (1) All rights to the supply of water from an irrigation work to any land, building or other immovable property shall be presumed to have passed to the transferee with the transfer of such land, building or other immovable property whenever such a transfer has been effected.

(2) No person entitled to the use of any irrigation work or land appertaining to any irrigation work or to use the water of any irrigation work shall sell or sub-let or otherwise transfer his right to such use without the permission of the Irrigation Officer duly empowered to grant such permission except when such right is transferred with the land, building or other immovable property having such right.

CHAPTER V.

OF THE AWARD OF COMPENSATION.

Compensation awardable for damage.

18. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Regulation, which is capable of being ascertained at the time of awarding such compensation.

Provided that no compensation shall be so awarded in respect of any damage arising from—

(a) deterioration of climate or soil;

(b) stoppage of navigation or of the means of floating timber or of watering cattle; or

(c) stoppage or diminution of the supply of water of any river or stream flowing in a natural channel or of any lake or natural collection of still water by the application of such supply for the purposes of a new irrigation work or otherwise, except in so far as a right to the use of such supply may be established; or

(d) failure or stoppage of the water in a channel, when such failure or stoppage is due to,

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the channel, or

(3) any measures considered necessary by any Irrigation Officer duly empowered in this behalf for regulating the proper flow of water in the channel, or for maintaining the established course of irrigation, or under section 15;

Remission of water-rates when allowable.

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (d) of the proviso, this section shall be entitled to such remission of the water-rate payable by him as may be authorised by the Government.

Limitation of claims.

19. No claim for compensation under this Regulation for any damage shall be entertained after the expiration of one year from the time when the damage complained of commenced, unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period.

Compensation for damage caused by entry on land, etc.

20. In every case of entry upon any land or building or the utilisation of materials under sections 5 and 6, the Irrigation Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property, and the value of the materials taken or utilised,

and within one month from the date of such entry compensation shall be tendered by the Irrigation Officer to the landholder or owner of the property.

Enquiry as to compensation.

21. If such tender is not accepted, the Irrigation Officer shall forthwith refer the matter to the Deputy Commissioner for the purpose of making enquiry as to the amount of compensation and deciding the same.

Claims to be preferred to the Deputy Commissioner.

22. All claims for compensation under this Regulation other than claims of the nature provided for in section 20, shall be made to the Deputy Commissioner having jurisdiction over the local area wherein the land or part thereof in respect of which damage is alleged to have been caused is situate.

Deputy Commissioner to determine the amount of compensation.

The Deputy Commissioner shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded.

Appeal.

23. An appeal shall lie to the Revenue Commissioner from the decision of the Deputy Commissioner under either of the two preceding sections as to the amount of compensation to be awarded within ninety days from the date of such decision and the decision of the Revenue Commissioner thereon shall be final.

Compensation when due.

24. All sums of money payable for compensation awarded under this chapter shall become due three months after the final award has been made;

and, simple interest at the rate of six per cent per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

CHAPTER VI.

OF THE CONSTRUCTION AND IMPROVEMENT OF IRRIGATION WORKS ON SPECIAL TERMS.

Preliminary enquiry to be held when the levy of acreage contribution or water-rate or both is necessary for undertaking construction or improvement of an Irrigation work.

25. Whenever it appears to the Government that the construction or improvement of an irrigation work in any local area cannot be undertaken unless, on the lands irrigable by such work, payment of a specified acreage contribution or water-rate or both, is guaranteed, the Government shall direct the Deputy Commissioner or any other officer appointed by it in this behalf to hold an enquiry in the manner hereinafter provided.

The Government may by notification in the *Official Gazette* declare that the provisions of this section shall not apply to the construction or improvement of any irrigation work or any class of irrigation works.

Explanation.—Improvement in this chapter means only such improvement of an irrigation work as will materially enhance the supply of water available therein for irrigation.

Procedure in holding the enquiry.

26. The Deputy Commissioner or other officer appointed to make the enquiry shall publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than thirty days after the last date of such publication) on which the enquiry will be held. The notice shall set forth the general scheme of the proposed construction or improvement, an estimate of the capital and recurring expenditure involved, the area which will be benefited by the scheme (hereinafter called the benefited area) and the rates at which it is proposed to levy contribution or water-rate or both in respect of the lands within the benefited area, and shall invite the holders of such lands to submit any objections or suggestions that they may desire to make on or before the date prescribed in the notice and to produce evidence, if any, in support of such objections or suggestions on the date appointed for the holding of the enquiry.

Report of the enquiring officer.

27. If the Deputy Commissioner or other officer appointed to make the enquiry after considering any objections or suggestions duly submitted and the evidence, if any, produced and taking such further evidence as he thinks necessary, finds that the holders of at least two-

thirds of the land within the benefited area give their consent in writing to such construction or improvement and to the payment of the proposed contribution or water-rate or both, he shall embody his proceedings in a report, and submit the same to the Government together with a statement of objections and suggestions presented to him and any remarks he may desire to make in respect of them.

Government may abandon or proceed with the scheme.

28. Upon receipt of the report submitted under section 27, the Government may, after such further enquiry, if any, as it may make, either abandon the scheme, or proceed with the scheme in the original form or with such modifications as it may consider necessary ; provided that where the modifications involve a substantial increase in the benefited area or in the acreage contribution or water-rate to be imposed, the provisions of sections 26 and 27 shall apply to the altered scheme.

Publication of the scheme as finally approved by the Government.

29. (1) The scheme as finally approved by the Government shall be published in the *Official Gazette*, and it shall embody the following particulars :—

(*a*) a specification of the work which it is proposed to construct or improve and an estimate of the capital and recurring expenditure involved thereby ;

(*b*) the estimated time required for the completion of the work ;

(c) a description of the benefited area ;

(*d*) the rates at which contribution will be recovered in respect of the lands in the benefited area and the terms of such recovery ;

(*e*) the rates at which water-rate will be imposed on the lands in the benefited area, and

(*f*) the fact that the consent of the holders of such land has been obtained as provided in this chapter.

(2) The contribution referred to in clause (*d*) of sub-section (1) shall in no case exceed one-third of the difference between the value of the wet and dry lands in the locality.

(3) The water-rate referred to in clause (*e*) of sub-section (1) shall be liable to revision after the expiry of a period of ten years and thereafter at intervals of not less than fifteen years.

(4) The publication under sub-section (1) of a scheme as approved by the Government shall be conclusive proof that any consent recorded therein has been duly obtained.

Levy of contribution and water-rate on lands within the benefited area.

30. After the scheme has been carried out, the Deputy Commissioner may, subject to such rules as may be prescribed by the Government in this behalf, levy from the holders of land within the benefited area in addition to the assessment fixed under the provisions of section 112 of the Mysore Land Revenue Code, 1888, contribution or water-rate or both at the rates referred to in section 29. Such contribution or water-rate shall be recoverable as a revenue demand.

Provided that the Deputy Commissioner may exempt from the whole or any part of this liability any land in the benefited area on the ground that the benefit from the irrigation work does not reach such land.

Provided further that when a water-rate is levied from the holder of any land under this section, no such rate shall be leviable in respect of such land under the provisions of section 53 of the Mysore Land Revenue Code, 1888.

CHAPTER VII.

OF OBTAINING LABOUR IN EMERGENCIES.

Impressment of labour for urgent works of repair, etc.

31. (1) Whenever it appears to an Irrigation Officer, or in his absence the Amildar of the taluk that unless some work or repair is immediately executed, an irrigation work would sustain such serious damage as to cause sudden and extensive public injury,

or that unless some clearance, of an irrigation work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed, serious public loss would occur,

and that the labourers necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner in time to prevent such injury or loss,

it shall be lawful for such officer to require the patel or patels of the village or villages in the vicinity to call upon all or any of the able-bodied male persons who reside or hold land in or near the locality where such work, repair or clearance has to be executed to assist in the execution of the same by their labour, as such officer or other person authorised by him in this behalf may direct.

(2) Every person so authorised shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Report to be made by Irrigation Officer.

An order made under the section shall be immediately reported to the Deputy Commissioner.

Payment for labour impressed.

32. All persons labouring or detained for the purpose of labouring by day in compliance with a requisition made under section 31 shall, as soon as may be reasonably practicable and in any case within fifteen days from the date of such impressment, be paid by the Irrigation Officer or the Amildar, as the case may be, for their labour and detention at twenty-five per cent in excess of the rates for the time being prevailing in the neighbourhood. If the persons are required to work or are detained at night, they shall be paid at double such rates.

Appeals against orders under section 32.

33. Any person who does not accept the amount tendered in payment under section 32, may appeal within thirty days from the date of such tender, to the Deputy Commissioner, whose decision shall be final.

CHAPTER VIII.

OF CUSTOMARY LABOUR.

Works for which customary labour is enforceable.

34. The provisions of this chapter shall apply to tanks, river and spring channels, feeder channels connected with tanks, and other irrigation works which have been brought up to standard and handed over to the raiyats for upkeep.

Nature of, and persons liable to, perform customary labour and the levy of cash contribution in lieu of labour.

35. (1) Every occupier of land, irrigated or served by any irrigation work, as well as the inhabitants of the village or villages and all others who derive any benefit, directly or indirectly from the work, shall perform, in respect of such work, without payment, the following customary labour :—

(*a*) filling up gullies, cracks, ruts and holes in the earth work ;

(*b*) removing any rank growth or pernicious weed ;

(*c*) clearing such underwood as may be considered by the Irrigation Officer to be injurious ;

(*d*) clearing sand or silt from sluices and branch channels and repairing the earthwork of petty and branch channels and clearing the accumulation in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields ;

(*e*) maintaining the bund to the standard level and with the slopes specified ;

(*f*) keeping in order the feeder channels of tanks;

(*g*) watching the bunds during rainy weather, turfing the parts acted on by the waves, helping in opening and closing the sluices, and generally performing minor duties of this nature in order to prevent breaches and other accidents.

Explanation.—All land forming part of the registered or recognised *atchkat* of an irrigation work shall be deemed to be land irrigated by this work, within the meaning of this section.

(2) The Government may, by an order, direct in respect of all or any of the aforesaid works in any locality that the customary labour to be performed under this section need not be performed either wholly or in part, or that in lieu of such labour, a contribution in cash at such rates as may be fixed under rules made in this behalf be levied from the persons bound to perform the same; provided that no such order of commutation shall be made except with the consent of two-thirds of the number of persons bound to perform such labour. Such order may, at any time, be cancelled or modified by the Government.

Village patel responsible for due performance of customary labour.

36. It shall be the duty of the patel of every village to see that in respect of any irrigation work situated in the village or villages in his charge the customary labour specified in section 35 is duly performed and the work maintained in an efficient condition.

Execution of work with hired labour on failure of customary labour.

37. If any person who under this chapter is bound to contribute labour towards any irrigation work, neglects or refuses to do so, the patel, or other officer empowered by Government in this behalf, may get the work performed by hired labour, after giving notice by beat of drum in the villages in which the persons bound to do the work ordinarily reside or the land served by such irrigation work is situate, requiring such persons to carry out the work by a specified date and on their failure to comply with the requisition within the appointed time.

Determination of quantum of labour to be contributed.

38. The quantum of labour which each person liable under section 35 is bound to contribute, and the proportionate share of labour for each village where an irrigation work serves more than one village, shall be determined in accordance with rules framed by the Government in this behalf.

Penalty for failure to perform customary labour.

39. Whenever any person who is bound to contribute labour under section 35, neglects or fails to do so without sufficient and reasonable cause, the Irrigation Officer may levy from such person a sum equivalent to the value of the labour which such person is bound to contribute, and such amount shall be recoverable as an arrear of land revenue.

From the order of the Irrigation Officer, an appeal shall lie, within thirty days from the date of service of the order to the Deputy Commissioner, whose decision shall be final.

CHAPTER IX.

OF IRRIGATION PANCHAYETS AND BOARDS.

Constitution of an Irrigation Panchayet.

40. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may, when he is satisfied that a demand exists, constitute an Irrigation Panchayet for a village.

Such Panchayet shall consist of the patel and the shanbhog of the village who shall be *ex-officio* members and of not less than five and not more than seven other members who shall be elected in accordance with rules made under this Regulation, by and from among occupiers of land who are interested by reason of such occupation in the proper maintenance of such work.

The elected members shall hold office for a period of three years, but shall be eligible for re-election. Provided that an elected member shall be deemed to have vacated his office if he ceases to possess the aforesaid qualification, or if he absents himself without reasonable or sufficient cause from three consecutive meetings.

Constitution of an Irrigation Board.

41. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may constitute an Irrigation Board consisting of two or more Panchayets or delegates therefrom in respect of an irrigation work irrigating more than one village.

The appointment of delegates to Irrigation Boards shall be made in accordance with rules framed under this Regulation and every delegate shall hold his office only for such time as he continues to be a member of the Panchayet of which he is a delegate.

42. The provisions of the following sections as regards Panchayets shall also apply as far as possible to Irrigation Boards.

43. The Government may, by rules to be framed in this behalf—

(*a*) prescribe the functions of an Irrigation Panchayet;

(*b*) prescribe the procedure to be adopted by an Irrigation Panchayet; and

(*c*) delegate to any Irrigation Panchayet any of the powers vested in the Government or in a Deputy Commissioner or in an Irrigation Officer under this Regulation.

Dissolution of Panchayet.

44. If in the opinion of the Deputy Commissioner, any Panchayet persistently makes default in the performance of the duties imposed upon it by this Regulation or rules thereunder or exceeds or abuses its powers, such Deputy Commissioner may, after giving an opportunity to the members of the Panchayet to be heard in their defence, order the Panchayet to be dissolved.

45. An appeal shall lie to the Revenue Commissioner against the order of the Deputy Commissioner under section 44 and the order on such appeal shall be final.

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences under the Regulation.

46. Whoever voluntarily and without proper authority—

(*i*) damages, alters, enlarges or obstructs any irrigation work;

(*ii*) interferes with, increases, or diminishes the supply of water in, or the flow of water from, through, over, or under any irrigation work or does any act which renders such irrigation work less useful than is intended for the purpose for which it was constructed;

(*iii*) opens, shuts or obstructs, or attempts to open shut or obstruct, any sluice in any irrigation work;

(*iv*) corrupts, or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;

(*v*) destroys, defaces or moves any land or level-mark or water-gauge fixed by the authority of a public servant;

(*vi*) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work;

(*vii*) causes any animal or vehicle to pass on or across any of the works, banks or channels of an irrigation work contrary to rules made under section 56 after he has been required to desist therefrom;

(*viii*) causes or permits any animal to graze or be tethered upon the bank or border of any irrigation work;

(*ix*) removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation work;

(*x*) puts up a dam across or otherwise obstructs the free course of water, the right to which vests in the Government;

(*xi*) violates any rule made under section 56, the breach whereof is declared to be an offence punishable under this section; and whoever

(*xii*) being responsible for the use and maintenance of a water course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner, or prevents or interferes with the lawful use of such water course by any person authorised to use the same, under section 8;

shall be deemed to commit an offence under this Regulation and shall, on conviction before a magistrate, be punished for each such offence as is mentioned in sub-sections (i) to (vi) (x) and (xii) of this section with fine which may extend to one hundred rupees and for each such offence as is mentioned in sub-sections (vii), (viii), (ix) and (xi) with fine which may extend to fifty rupees.

47. Any person who, being duly called upon by the patel of his village to assist by his labour in the execution of any work under section 31, refuses or neglects to comply with such call without sufficient and reasonable cause shall, on conviction before a magistrate, be punished with fine which may extend to fifty rupees.

Persons convicted under section 46 liable to repair the damage, etc.

48. When any person is convicted of an offence under section 46, the convicting magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the land-mark, level-mark, water-gauge or apparatus in respect of which conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person by the Deputy Commissioner as an arrear of land revenue.

Recovery of cost of repairing damage when the offender is unascertainable.

49. When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Deputy Commissioner may deem sufficient, be ascertained or identified, the Deputy Commissioner may, on the recommendation of the Irrigation Board or the Irrigation Panchayet concerned with the work, after giving not less than one month's notice to the occupiers of all lands benefited thereby, and after hearing their representations, if any, recover from them, as an arrear of land revenue, the cost of repairing such damage, or of removing such alteration, enlargement or obstruction, in such proportion as he thinks fit.

Punishment under other laws not barred.

50. Nothing herein contained shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Regulation;

Provided that no person shall be punished twice for the same act or omission.

Power to remove obstruction or damage to works.

51. Any person in charge of or employed upon any irrigation work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a magistrate or to the nearest police station to be dealt with according to law, any person who within his view—

(1) wilfully damages, obstructs or fouls any irrigation work, or

(2) without proper authority interferes with the supply or flow of water, in or from any irrigation work so as to endanger, damage, or render less useful any irrigation work.

CHAPTER XI.

MISCELLANEOUS.

Power of revision.

52. The Government or the Revenue Commissioner may call for and examine the records of the proceedings under this Regulation of a Deputy Commissioner or any Irrigation Officer subordinate to it or him for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any decision or order passed and the regularity of the proceedings of such officer.

When on examining the records of any case, the Government or the Revenue Commissioner considers that the order or decision of such officer should be revised, it or he may reverse or alter such order or decision or pass such other order as it or he may think fit. The Government alone shall be competent to revise under this section any decision or order which is declared by this Regulation to be final.

Power to summon and examine witnesses.

53. Any officer empowered under this Regulation to conduct any enquiry, may exercise all such powers connected with the summoning and examining the witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure, 1911, and every such enquiry shall be deemed a judicial proceeding.

Manner of serving notices.

54. Service of any notice under this Regulation shall be made in accordance with the provisions of the Code of Civil Procedure, 1911.

Jurisdiction of Civil Courts barred.

55. No Civil Court shall take cognizance of any suit filed in respect of any matter dealt with under the provisions of Chapter V, Chapter VI, Chapter VII or Chapter VIII.

Power to make rules.

56. (1) The Government may, after due publication, make rules not inconsistent with this Regulation to carry out all or any of the provisions of this Regulation.

(2) The rules made under this section shall be published in the *Official Gazette* and shall thereupon have effect as if enacted under this Regulation.

MIRZA M. ISMAIL,
Dewan.